

**REMARKS**

**Status of the claims:**

With the above amendments, claims 1, 5, 8 and 11 have been canceled, and claims 2-4, 6, 7, 9, and 12 have been amended. Thus, claims 2-4, 6, 7, 9, 10, and 12 are pending and ready for further action on the merits. No new matter has been added by way of the above amendments. Support for the amendment to claim 9 comes from page 7, lines 4-5. Claims 2-4, 6, 7, and 12 have been amended by changing their dependency. Reconsideration is respectfully requested in light of the following remarks.

**Examiner Interview**

Applicants would like to thank the Examiner for taking the time on July 8, 2003 to meet with Applicants' representatives.

**Double Patenting**

Claims 1-12 remain rejected for obviousness-type double patenting over US Patent No. 6,300,387. Applicants have filed a terminal disclaimer on July 31, 2003 disclaiming the terminal part of any patent that results from the instant application that extends beyond the life of US Patent No. 6,300,387. Accordingly, Applicants believe that the rejection has been obviated. Withdrawal of the rejection is warranted and respectfully requested.

**Rejections under 35 USC §112, second paragraph**

Claims 1-7 and 12 have been rejected under 35 USC §112, second paragraph as being indefinite. The Examiner asserts that the rejection over the phrase "substantially free of ethylenically unsaturated group-containing monomers" is maintained for the reasons of record. Applicants have canceled claim 1 so the rejection is moot. Withdrawal of the rejection is warranted and respectfully requested.

Moreover, claims 1-7 and 12 are also rejected because the Examiner asserts that the instant invention, in the examples, describes "resin preparations", which do not contain added monomers. Applicants have canceled claim 1 so the rejection is moot. Withdrawal of the rejection is warranted and respectfully requested.

The Examiner also asserts ". . . applicant has used a term, "resin", which differs from the "Encyclopedia of Chemical Technology" provided by applicant". Applicants have canceled claim 1 so the rejection is moot. Withdrawal of the rejection is warranted and respectfully requested.

**Rejections under 35 USC §103**

Claims 1-12 are rejected under 35 USC §103(a) as being unpatentable over Hefner '178 (US Patent No. 4,524,178) in view of JP '160 (JP 63-305160).

Claims 1-12 are rejected under 35 USC §103(a) as being unpatentable over Shibata '326 (US Patent No. 5,077,326) in view of Wiseman '448 (US Patent No. 5,741,448) alone, or in view of JP '160.

These rejections are traversed for the following reasons.

### Present Invention

The present invention, as recited in claim 9, relates to a molding composition consisting essentially of:

- (D) an aggregate; at least one of
- (E) a linear unsaturated polyester and
- (F) a linear unsaturated polyester polyamide; and
- (D) a radical generator,

wherein each of Component (B) and (C) has a content of an alkylene (having from 2 to 4 carbon atoms) oxide adduct of bisphenol A (average added number of mols: 1 to 10) of 3 to 40 mol% based on an amount of constituent monomers of each of said Components (B) and (C)

and wherein component (B) has a softening point of 80°C to 130°C;  
and wherein component (C) has a softening point of 80°C to 130°C.

### Disclosure of Hefner '178

Hefner '178 discloses a polyester and polyester-amide alkyds containing no polycycloalkenyl end groups, in admixture

with non-resinous vinyl monomers, which are flexibilized by inclusion in the mixtures of about 1 to 20 parts by weight of a polyglycol moiety-comprising, vinyl reactive, urethane oligomer per hundred parts of the alkyd.

#### **Disclosure of JP '160**

JP '160 discloses a composition comprising an unsaturated polyester resin containing at least 1/6 mol hydrogenated bisphenol A glycol and a metal salt of stearic acid. The composition contains at least 1/6 mol hydrogenated bisphenol unsaturated polyester per mol resin to retain heat resistance. The composition contains 45-35% wt. % crosslinking agent and 55-65% wt. % polyester.

#### **Disclosure of Shibata '326**

Shibata '326 discloses a curable unsaturated polyester composition with high surface quality that contains an unsaturated polyester, a vinyl monomer, either an alkane polyol polyacrylate or an alkane polyol polymethylacrylate, a thermoplastic resin, and one or more curing catalysts selected from t-butylperoxy benzoate, t-butylperoxy octoate and 2,5-dimethyl-2,5-di(benzoilperoxy) hexane. Molding compounds are obtained by impregnating glass fibers with such composition and

molded products obtained by curing such molding material have improved surface smoothness.

**Disclosure of Wiseman '448**

Wiseman '448 discloses a shrink resistant resin composition which is curable at room temperature. The composition contains (a) a curable unsaturated polyester resin, (b) an accelerator, (c) a low temperature free radical peroxide initiator, and (d) a low profile additive comprising polyolefin powder. The resin composition may be cured at room temperature to provide a molded article, which is said to improve shrink-resistance.

**Removal of the Rejection over Hefner '178 in view of JP '160**

Applicants submitted a 37 CFR §1.132 declaration executed by Mr. Kawabe, one of the inventors in the instant application on July 31, 2003. Applicants submit that this declaration demonstrates unexpectedly superior results over Hefner '178. Please see the table on page 3 of the declaration. When Applicants reproduced the composition that is formulation 2 in Hefner '178, Applicants found that this formulation had an unpleasant smell. In particular, the instant invention does not have the smell associated with the examples in the disclosure of Hefner '178. Applicants have further reduced styrene levels below those of the Examples in Hefner '178 and the molding composition still suffered from a bad smell (please see the

styrene content in the table in the 37 CFR §1.132 declaration). It is only when the styrene content is taken to the levels present in the instant invention that the smell is not noticeable. Thus, because claim 9 uses the transitional language "consisting essentially of", this precludes ingredients that adversely affect the smell of the composition such as styrene.

Moreover, the instant invention also possesses unexpectedly superior results in the softening points of the components of the invention. Please see the graph on page 4 of the declaration. For the above reasons, Applicants submit that the rejection over Hefner '178 in view of JP '160 is inapposite. Withdrawal of the rejection is warranted and respectfully requested.

Removal of the Rejection over Shibata '326 in view of Wiseman '448 alone, or in view of JP '160

As was argued above, claim 9 possesses the transitional language "consisting essentially of" in it, which precludes the insertion of styrene into the molding composition because styrene has a negative effect on smell. Please see the 37 CFR §1.132 declaration for support for this position. Shibata '326 uses styrene at amounts of up to 45-50 % (see table 1 at columns 5 and 6 of Shibata '326). At column 4, lines 63-65 in Shibata '326, it is disclosed that an unsaturated polyester resin A is

synthesized from propylene glycol and maleic anhydride that contains 30% styrene. Shibata '326 does not disclose or suggest compositions not containing styrene. In other words, Shibata '326 did not recognize the disadvantages of leaving styrene in its composition, particularly as relates to smell. Neither of Wiseman '448 nor JP '160 correct this deficiency. Accordingly, for these reasons, Applicants submit that the rejection has been obviated. Withdrawal of the rejection is warranted and respectfully requested.

With the above remarks and amendments, it is believed that the claims, as they now stand, define patentable subject matter such that passage of the instant invention to allowance is warranted. A Notice to that effect is earnestly solicited.

If any questions remain regarding the above matters, please contact Applicant's representative, T. Benjamin Schroeder (Reg. No. 50,990), in the Washington metropolitan area at the phone number listed below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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By

  
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